IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MS JUSTICE G.ROHINI**

**WRIT PETITION NO : 5182 of 2005**

Between:

1 Syed Khadar Basha, S/o.Hussain Saheb,
2 Smt.Razia W/o.Syed Khader Basha
3 Syed Chand Basha S/o.Hussain Saheb
4 Smt.Gulzar Syed Chand Basha W/o.Syed Chand Basha
5 Syed Ahammad Basha s/o.Hussain Saheb,

**..... PETITIONERS**

AND

1 Government of Andhra Pradesh, rep by its Principal

Secretary, Municipal Administration, Secretariat Buildings,
Hyderabad.
2 Commissioner, Visakhapatnam Municipal Corporation,

Visakhapatnam.
3 The Collector, Visakhapatnam District, Visakhapatnam.
4 The Principal Secretary, Revenue Department, Government

of A.P. Secretariat, Buildings, Hyderabad.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction particularly one in the nature of Mandamus declaring the Proceedings Roc.No.13453/2004/G1 dt.24.2.2005 of the second respondent intending to demolish our premises bearing D.No.10-50- 29 of Waltair Main Road, Visakhapatnam for the purpose of Road widening without initiating proceedings under the Land Acquisition Act and without considering the objections as illegal, arbitrary, unconstitutional and consequently by nullifying the said decision direct the respondents to observe the procedure prescribed under Law and compensate the loss and damages by allotting vacant Government site adjacent to our premises of equal worth.

**Counsel for the Petitioner:DR.P.B.VIJAY KUMAR**

**Counsel for the Respondent Nos.1, 3 and 4: GP FOR MUNCIPAL ADMN. & URBAN DEV.**

**Counsel for the Respondent No.2: Mr.N.Ranga Reddy**

**The Court at the stage of admission made the following :**

**O R D E R:**

Heard the learned counsel for the petitioners, learned Government Pleader appearing for respondents 1, 3 and 4 and Sri N. Ranga Reddy, learned standing counsel appearing for the second respondent.

The petitioners seek a writ of Mandamus directing the respondents not to demolish the building of the petitioners bearing Door No.10-50-29 of Waltair Main Road, Visakhapatnam without following due process of law, as arbitrary and illegal.

It is represented by the learned counsel appearing for both parties that the issue involved in this writ petition is squarely covered by a decision of this Court in WP.No.21198 of 1997 and batch, dated 03-02-1998, wherein the Division Bench while considering an identical question, issued guidelines as under:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. If the authorities concerned want to take action for eviction /dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording on opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the

assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4. If the demolition is in respect of local bodies Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R& B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

The learned Government Pleader as well as the learned standing counsel appearing for the second respondent do not dispute the above legal position.

Accordingly, the writ petition is disposed of directing the respondents not to demolish the structures in question, without following the guidelines issued by the Division Bench in the above Writ Petition. No costs.

_____

**(G.ROHINI, J)**

Dated 15th March, 2005.

mrb

**To**

1. The Principal Secretary, Government of Andhra Pradesh,

Secretary, Municipal Administration, Secretariat Buildings,
Hyderabad.

2. The Commissioner, Visakhapatnam Municipal Corporation,

Visakhapatnam.
3. The Collector, Visakhapatnam District, Visakhapatnam.
4. The Principal Secretary, Revenue Department, Government

of A.P. Secretariat, Buildings, Hyderabad.

5. Two CCs to G.P for Muncipal Administration Revenue, High

Court Buildings,

Hyderabad(OUT)

6. Two CD copies.

-

-